

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

YINYIN MAR MA,  
Plaintiff,

v.

UNITED STATES SOCIAL SECURITY  
ADMINISTRATION,  
Defendant.

Case No. [13-cv-05196-JST](#)

**ORDER GRANTING MOTION TO  
VACATE DISMISSAL AND SETTING  
BRIEFING SCHEDULE**

Re: ECF No. 15

The court dismissed this action for the denial of Social Security benefits on May 27, 2014, after Plaintiff Ma failed to file a summary judgment motion by the deadline set by the procedural order entered in the case, and failed to file a response to the court's order to show cause why this action should not be dismissed for failure to prosecute. ECF No. 14.

Ma now moves under Federal Rule of Civil Procedure 60 to vacate the court's order of dismissal on the ground that Ma's failure to prosecute the action was caused by her counsel's unfamiliarity with the court's electronic filing system. ECF No. 15. The motion is unopposed.

Federal Rule of Civil Procedure 60(b) provides four grounds for relieving a party from a final judgment, order, or proceeding: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

In light of Ma's counsel contention that Ma's failure to comply with the court's orders was based on inadvertence, and because Defendant has not opposed the motion to vacate the order of

1 dismissal, Ma's motion to vacate the order of dismissal is GRANTED.

2 Ma may file a motion for summary judgment no later than July 25, 2014. Defendant may  
3 file a response or a counter-motion no later than 28 days of the filing date of Ma's motion. Ma  
4 may file a reply within 14 days of the date on which Defendant serves the opposition or counter-  
5 motion.

6 **IT IS SO ORDERED.**

7 Dated: June 20, 2014

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9 JON S. TIGAR  
United States District Judge

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